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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

DENISE ELIZABETH.,

Plaintiff,

VS.

TIMOTHY FRANZ GEITHNER, et al.

Defendants.

Case No. CV12-7719 CAS (VBKx)

UNITED STATES OF AMERICA'S
NOTICE OF MOTION AND MOTION
TO DISMISS UNDER RULES 8 AND
12 OF THE FED. R. CIV. P.

Hearing date: January 14, 2013, at 10
a.m,
Courtroom 5 (Room 218-J; 2nd Floor)
Federal Courthouse
312 North Spring Street
Los Angeles, California

Judge Christina A. Snyder

On January 14, 2013, at 10 a.m., the United States will request the Court to dismiss Plaintiff's complaint under Rules 8 and 12 of the Federal Rules of Civil Procedure for the reasons set forth in the accompanying memorandum.

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In compliance with L.R. 7-3, on November 13, 2012, counsel for the United States wrote to Denise Elizabeth Lam notifying her of the Government's anticipated motion and requesting that he contact counsel for the Government. A copy of the Government's letter is attached as exhibit A. Counsel for the United States has received no response to his November 13 letter to the plaintiff.

Respectfully Submitted,

ANDRÉ BIROTTE JR.
United States Attorney
SANDRA R. BROWN
Assistant United States Attorney
Chief, Tax Division

DATED: 11/29/2012

JAMES C. HUGHES
Assistant United States Attorney

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U. S. Department of Justice

*United States Attorney
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Room 7211 Federal Building
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November 13, 2012

FILE

Denise Elizabeth
Denise Elizabeth Lam
622 South Broadway #5
Redondo Beach, California 90277

Re: *Denise Elizabeth v. Timothy Franz Geithner*
Case No.: CV 12-7719 CAS (VBKx)

Dear Ms. Lam:

Local Rule 7-3 of the Central District of California requires that counsel contemplating the filing of any motion shall first contact opposing counsel to discuss thoroughly the substance of the contemplated motion and any potential resolution.

In compliance with this rule, I am contacting you to advise you that the Government anticipates filing a motion to dismiss your recent complaint in this case. Specifically, the Government will assert that:

- a. The Court lacks subject-matter jurisdiction over any discernible claims in the complaint;
- b. You have not properly served the United States as required by the Federal Rules of Civil Procedure;
- c. You have failed to state a claim on which relief may be granted; and
- d. You have failed to comply with Rule 8 of the Federal Rules of Civil Procedure requiring a short and plain statement of (1) the grounds for the Court's jurisdiction and (2) the claim showing that you are entitled to relief.

Authority in support of the Government's anticipated motion include the following cases in which complaints similar to yours have been dismissed: *Ruiz v. Geithner*,¹ *Holman v. Paulson*², and *Keith v. Everson*³ which cites to several other cases dismissing similar complaints.

Please contact me no later than November 19, 2012, so that we may discuss this matter. I may be reached at (213) 894-4961.

Very truly yours,

ANDRÉ BIROTTÉ JR.
United States Attorney



JAMES C. HUGHES
Assistant United States Attorney

¹ 2009 WL 3232160 (S.D. Cal. 2009)

² 2009 WL 1465461 (E.D. N.C. 2009)

³ 2004 WL 2601073 (D.Nev. 2004)

1 **PROOF OF SERVICE BY MAILING**

2 I am over the age of 18 and not a party to the within action. I am employed
3 by the Office of the United States Attorney, Central District of California. My
4 business address is 300 North Los Angeles Street, Suite 7211, Los Angeles,
5 California 90012.

6 On November 29, 2012, I served

7
8 United States of America's Notice of Motion and Motion to Dismiss Under Rules
9 8 and 12 of the Fed.R.Civ.P.

10
11 on the person and entity name below by enclosing a copy in an envelope addressed
12 as shown below and placing the envelope for collection and mailing on the date
13 and at the place shown below following our ordinary office practices. I am readily
14 familiar with the practice of this office for collection and processing
15 correspondence for mailing. On the same day that correspondence is placed for
16 collection and mailing, it is deposited in the ordinary course of business with the
17 United States Postal Service in a sealed envelope with postage fully prepaid.

18 SEE ATTACHED.

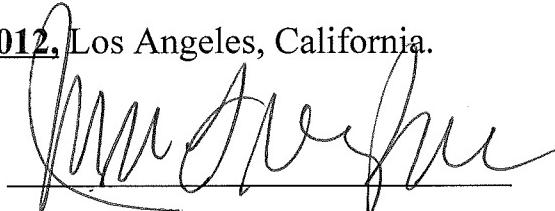
19 Date of mailing: November 29, 2012.

20 Place of mailing: Los Angeles, California

21 I declare under penalty of perjury under the laws of the United States of
22 America that the foregoing if true and correct.

23 I declare that I am employed in the office of a member of the bar of this
24 court at whose direction the service was made.

25 Executed on: November 29, 2012, Los Angeles, California.

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28 
 MARIA LUISA Q. BULLARD

RE: DENISE ELIZABETH V. TIMOTHY FRANZ GEITHNER, et al.

CASE NO. CV12-7719 CAS (VBKx)

SERVICE LIST

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622 S. Broadway, Suite 5
Redondo Beach, CA 90277

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